

REMARKS

Claims 1-26, all the claims pending in the application, stand rejected. Claims 1, 7, 10, 11, 17, 21 and 25 are amended. Claims 12-16, 24 and 26 are cancelled.

Claim Objections

Claims 1 and 9 are objected to because the amendments to these claims do not fully comply with the requirements of 37 CFR 1.121(c) because several corrections were not properly noted with underlines and strike-throughs.

As the Examiner has not issued a Non-Compliance Notice, offering Applicant a chance to submit a proper set of claims, and in view of the issuance of a new Office Action on the previously submitted claims, it is assumed that the claims stand as submitted. The amendments to claim 1 herein are made on the assumption that the claim amendments as previously presented are accepted. Similarly, the text of claim 9 presented herein assumes that the previous amended text was accepted.

Thus, this objection should be overcome.

Claim Rejections - 35 USC § 112

Claims 7 and 21 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. This rejection is traversed for at least the following reasons.

The Examiner states that the claims fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention because the terms SMS, EMS, or MMS were not defined.

This rejection is overcome by the amendment to the claims.

Claim Rejections - 35 USC § 103

Claims 1-6, 8, 9, 17-20 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642). This rejection is traversed for at least the following reasons.

First, as to claims 24 and 26, the rejection is moot in view of the cancellation of the claims.

Second, with respect to independent claims 1 and 17, Applicants have introduced the subject matter of claim 10 into claim 1 and the subject matter from claim 24 into claim 17. Claim 10 is amended and claim 24 is now cancelled.

Specifically, Applicants have incorporated into these claims the feature that the individually delivered specific offers are transmitted to an EPOS terminal to enable the terminal to consummate the offers by specific transactions in accordance with those offers. This feature is an important feature of the system which is really essential if the individual offers are to be honored in a simple and efficient manner. Applicants respectfully submit that this feature is not remotely suggested by either Millikan or Avallone.

Although claims 10 and 24 previously were rejected on a combination of the Millikan and Avallone et al references, Applicants respectfully submit that the subject matter of those claims is not anticipated or obvious over the disclosures of the cited references and provides important benefits for the reasons to be explained more fully below.

Claim 1

Amended claim 1 defines a marketing system which is clearly distinguishable from the disclosures of the Millikan reference and moreover is not rendered obvious by any combination of the disclosures made by Millikan and Avallone et al.

Amended claim 1 defines a system in which a first processor assembles specific offers based on data relating to a detected consumer and an output device for delivering specific offers to an individual detected consumer. By a second important feature of the claim, the specific offers made to the individual detected consumer are transmitted to an EPOS terminal so that purchases made by that particular consumer are provided in accordance with the offers which have been supplied to the consumer. This transfer of data to the EPOS terminal enables consummation of acceptance of the offers by specific transactions based on the individually communicated offers specific to the particular consumer.

Millikan

The Millikan reference does not disclose the supply of specific offers to an individual detected consumer able to be accepted by the individual consumer, nor does Millikan remotely suggest the transmission of specifically made offers to an EPOS terminal to enable consummation of the offers by specific transactions based on the individually communicated specific offers to a particular identified consumer.

Paragraph 13 of the Office Action which provides a detailed analysis of claim 1 with reference to relevant paragraphs in Millikan, does not address the requirement that there is a first processor which assemble specific offers based on data relating to a detected consumer and that such specific offers are supplied to the detected consumer. At paragraphs [0028] and [0029] Millikan does disclose the generation of targeted messages; however, these are produced on the basis of a pooling of data relating to customers presently in the store and the messages are generated in accordance with the pooled customer data. Therefore any message must necessarily be in the nature of a generalized or generic advertisement which may be of interest to a significant proportion of the pool of customers presently in the store but not in the form of a specific offer to one particular identified consumer. Indeed, paragraphs [0028] and [0029] make it clear that the Millikan system aims at delivering targeted advertisements applicable to a group of consumers and not individual offers to a detected individual consumer. Any such advertisement would need to related only to pricing applicable to all consumers.

Millikan makes no disclosures whatsoever suggesting transmission of offers made to a selected consumer at an EFTPOS terminal. Indeed, in view of the use of pooled data proposed by Millikan there would be no need to transmit offers actually made directly to a detected consumer as Millikan only contemplates targeted advertising of pricing applicable to all consumers.

Avallone

Avallone, like Millikan, does not disclose supply of specific offers to an individual identified customer nor does Avallone remotely suggest the transmission of individually supplied specific offers onto an EPOS terminal to enable acceptance of the specific offers by the

individual consumer to be consummated by transactions based on the individually supplied specific offers.

Avallone describes use of customer data to provide to users or customers personalized information such as a personalized shopping list, targeted advertisements, health and/or nutritional information, promotional offers and the like as discussed at paragraph [0020]. Avallone is concerned with tracking the location of a customer within a store and delivering selected messages to the customer when the customer reaches appropriate locations. It is mentioned at paragraph [0039] that information delivered at the various locations may contain a list of weekly specials, a list of managers specials and the location of each item within the store but there is nothing in Avallone to suggest the supply to individual customers of specific offers let alone transmission of individually delivered offers to an EPOS terminal to allow consummation by specific transactions.

Accordingly, no combination of the Millikan and Avallone references renders obvious this particular combination of features now recited in amended claim 1.

Rejections of Claims 10 and 24 are Flawed

As already noted, claims 1 and 17 are amended to incorporate limitations from claims 10 and 24, and claims 10 and 24 were rejected. Specifically, at paragraph 16 of the Office Action, the Examiner suggests in discussing claim 10 that Millikan discloses transmission of offers to an EPOS terminal.

However, while paragraphs [0027] and [0032] of Millikan do refer to an EPOS terminal, there is no suggestion that such terminal receives any information concerning specific offers delivered to individual consumers.

Paragraph [0027] of Millikan merely states that “consumer data/information is updated by purchase information obtained by retail terminals (not shown) located in the establishment 10 that are used to consummate retail or purchase transactions”. This clearly refers only to transmission of data after a sale has been made solely in order to update the stored consumer data/information.

The relevant passage at paragraph [0032] of Millikan merely states:

“In another form, during checkout at a retail terminal, self-checkout, or the like (collectively purchase transaction terminal), the swiping of the consumer card in the purchase transaction terminal would log out the consumer and cause re-evaluation”.

Again this is a reference to transmission of data after a transaction has been made and then only to update the pooled data on the group or pool of customers in the store. There is no suggestion of transferring specific offers which have been individually offered to an identified customer prior to the customer presenting to an EPOS terminal in order to enable the terminal to consummate offers by specific transactions honoring the individually delivered offers in the manner now clearly recited in amended claim 1.

Claim 17

Amended claim 17 defines a method as carried out using the system as defined in amended claim 1. It is submitted that this method is not anticipated by the disclosures of Millikan or any combination of the disclosures of Millikan and Avallone for the same reasons described above in relation to claim 1.

Specifically, there is no disclosure of providing specific offers to an individual detected consumer nor is there any disclosure of transmitting any such individually delivered specific offers to an EPOS terminal so that purchases subsequently made by the consumer are provided in accordance with the specific offers in the message to the consumer. as now clearly defined in amended claim 17.

Claims 2-6, 8, 9, 18-20, 22, 23 and 25

These claims are patentable due to their dependence from allowable claims 1 or 17.

Claims 7, 10-16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Millikan (U.S. 2003/0105667) in view of Avallone et al. (U.S. 2002/0147642) and further in view of Official Notice. This rejection is traversed for at least the following reasons.

First, as to claims 12-16, the rejection is moot in view of the cancellation of these claims.

Second, the remaining claims depend from claims 1 or 17 and would be patentable for the reasons given for those claims.

Third, to the extent that the Examiner may use “Official Notice” to remedy the deficiencies of Millikan and Avallone, Applicants request the Examiner to provide prior art

references and identify their pertinent teachings that disclose (1) the provision of specific offers to an individual detected consumer and (2) transmitting any such individually delivered specific offers to an EPOS terminal so that purchases subsequently made by the consumer are provided in accordance with the specific offers in the message to the consumer.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Alan J. Kasper/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Alan J. Kasper
Registration No. 25,426

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

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